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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/503,240	02/14/2000	Ki-Seon Kim	P55971	6278

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EXAMINER

FISHER, MICHAEL J

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 01/15/2002

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/503,240

Applicant(s)

KIM ET AL.

Examiner

Michael J Fisher

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1, 13, 16 and 21-25 is/are rejected.
- 7) ☐ Claim(s) 2-12, 14, 15 and 17-20 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 16 October 2001 is: a) ☒ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1,13,16 and 21-25 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claims of U.S. Patent No. 6,233,026. Although the conflicting claims are not identical, they are not patentably distinct from each other because all claims are directed toward a monitor case with snap fittings, the lower fitting being substantially the same, as can be seen by comparing fig 6 of the instant application with fig 4 of the patent, with the upper fitting being the same as can be seen by comparing fig 3 of the instant application and fig 3 of the patent, the method of claims 21-25 could be used to produce the case as claimed in the patent. The patent claims all the various snap fittings, snap portions, snap pins, shoulder portions, engaging pins, detents, holes and surfaces. The difference being that the patent further claims lower shield that is absent from the instant application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1,16 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beak.

Beak discloses a monitor enclosure (fig 1) which encloses a cathode ray tube (20), with front (10) and rear (40) casings, with an engaging pin (11 and 11') at the bottom of the front case (fig 1) which are received in a slot in the rear case (in 42,42').

Art Unit: 3636

Beak further discloses pins (not numbered but best seen in fig 1 around the periphery of the rear case) which would be accepted by openings in the front case. The slot has a receiving section (below feature 12 as best seen in fig 4) which engages the engaging pin to hold it in place. The method of claim 21 would produce this configuration and is therefore inherently disclosed.

Response to Arguments

Applicant's arguments filed 10/16/01 have been fully considered but they are not persuasive. As to the arguments that the double patenting rejection is improper, as the applicant notes in the instant application, a computer without a shield is well known in the art. The patent and the instant application have the same snap fittings. The patent further has snap fittings for the shield that is not claimed in the instant application which snaps it to the casing. The snap fittings of the shield are not used to snap the case together, but to snap the shield to the case. As a computer without a shield is well known, it would be obvious to make the same case without a shield and without the snap fittings with which it is secured. Further, the names of the features are changed in the instant application, and not their form or function. Applicant is correct in that the dependent claims are not anticipated by the previous patent and as such the double patenting rejection is amended to disclose this. As to the argument that the pins (unnumbered) are not the engaging pins as recited in the claims. A look at the front

Art Unit: 3636

casing (10) in fig 1 of Beak, shows a corresponding number of features which line up with the protruding pins of rear case (40). Specifically, just to the left of the number 11 (not the feature, but the actual number) in fig 1 shows a pair of features which appear to line up with the pair of protruding pins on the bottom left of the rear case. As positioning pins are very well known in the art, it would appear that they are indeed positioning pins which are received in the corresponding features on the front case. An engaging portion would be the portion of the pin that is inserted into the receiving portion thereby disclosing the invention as claimed.

Allowable Subject Matter

Claims 2-12, 14, 15 and 17-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: As to claim 2, the prior art does not disclose the elastic plate as described, as to claim 14, the prior art does not teach a circular wall portion in a detent portion, as to claim 17, the prior art does not teach the groove forming at the top portion of the wall surrounding the first hole. Such modifications would not be obvious and would appear to be improper hindsight reasoning.

Art Unit: 3636


Conclusion


THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Fisher whose telephone number is 703-306-5993. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

MF 
January 12, 2002


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600